

**Introduced by Senator Bowen**

December 2, 2002

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An act to amend Sections 1785.11.1 and 1798.85 of the Civil Code, relating to personal information.

LEGISLATIVE COUNSEL'S DIGEST

SB 25, as introduced, Bowen. Personal information: security.

(1) Existing law authorizes a consumer to place a security alert in his or her credit report, as specified, and sets forth the duties of a consumer credit reporting agency with regard to a security alert.

This bill would further provide that any person who uses a consumer credit report in connection with the approval of credit, as specified, may not lend money, extend credit, or complete the purchase, lease, or rental of goods or noncredit related services without taking reasonable steps to verify the consumer's identity, in order to ensure that the application for an extension of credit or for the purchase, lease, or rental of goods or noncredit related services is not the result of identity theft. The bill would also specify that if a consumer has placed a statement with the security alert in his or her file requesting that identity be verified by calling a specified telephone number, any person who receives that statement with the security alert in a consumer's file must take reasonable steps to verify his or her identity by contacting the consumer using the specified telephone number prior to lending money, extending credit, or completing the purchase, lease, or rental of goods or noncredit related services, with certain exceptions.

(2) Existing law prohibits a person or entity, but not a state or local agency, from publicly posting or displaying an individual's social security number or doing certain other acts that might compromise the

security of an individual's social security number on or after July 1, 2002, except as specified.

This bill would impose a state-mandated local program by extending these requirements to state and local agencies on or after January 1, 2004, subject to the same exceptions.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1785.11.1 of the Civil Code is amended  
2 to read:

3 1785.11.1. (a) A consumer may elect to place a security alert  
4 in his or her credit report by making a request in writing or by  
5 telephone to a consumer credit reporting agency. "Security alert"  
6 means a notice placed in a consumer's credit report, at the request  
7 of the consumer, that notifies a recipient of the credit report that  
8 the consumer's identity may have been used without the  
9 consumer's consent to fraudulently obtain goods or services in the  
10 consumer's name.

11 (b) A consumer credit reporting agency shall notify each  
12 person requesting consumer credit information with respect to a  
13 consumer of the existence of a security alert in the credit report of  
14 that consumer, regardless of whether a full credit report, credit  
15 score, or summary report is requested.

16 (c) Each consumer credit reporting agency shall maintain a  
17 toll-free telephone number to accept security alert requests from  
18 consumers 24 hours a day, seven days a week.



1 (d) The toll-free telephone number shall be included in any  
2 written disclosure by a consumer credit reporting agency to any  
3 consumer pursuant to Section 1785.15 and shall be printed in a  
4 clear and conspicuous manner.

5 (e) A consumer credit reporting agency shall place a security  
6 alert on a consumer's credit report no later than five business days  
7 after receiving a request from the consumer.

8 (f) The security alert shall remain in place for at least 90 days,  
9 and a consumer shall have the right to request a renewal of the  
10 security alert.

11 (g) *Any person who uses a consumer credit report in connection*  
12 *with the approval of credit based on an application for an*  
13 *extension of credit, or with the purchase, lease, or rental of goods*  
14 *or noncredit related services and who receives notification of a*  
15 *security alert pursuant to subdivision (a) may not lend money,*  
16 *extend credit, or complete the purchase, lease, or rental of goods*  
17 *or noncreditrelated services without taking reasonable steps to*  
18 *verify the consumer's identity, in order to ensure that the*  
19 *application for an extension of credit or for the purchase, lease, or*  
20 *rental of goods or noncredit related services is not the result of*  
21 *identity theft. If the consumer has placed a statement with the*  
22 *security alert in his or her file requesting that identity be verified*  
23 *by calling a specified telephone number, any person who receives*  
24 *that statement with the security alert in a consumer's file pursuant*  
25 *to subdivision (a) shall take reasonable steps to verify the identity*  
26 *of the consumer by contacting the consumer using the specified*  
27 *telephone number prior to lending money, extending credit, or*  
28 *completing the purchase, lease, or rental of goods or*  
29 *noncredit-related services. If a person uses a consumer credit*  
30 *report to facilitate the extension of credit or for another*  
31 *permissible purpose on behalf of a subsidiary, affiliate, agent,*  
32 *assignee, or prospective assignee, that person may verify a*  
33 *consumer's identity under this section in lieu of the subsidiary,*  
34 *affiliate, agent, assignee, or prospective assignee.*

35 (h) *For purposes of this section, "extension of credit" does not*  
36 *include an increase in the dollar limit of an existing open-end*  
37 *credit plan, as defined in Regulation Z issued by the Board of*  
38 *Governors of the Federal Reserve System (12 C.F.R. 226.2), or any*  
39 *change to, or review of, an existing credit account.*

1 (i) If reasonable steps are taken to verify the identity of the  
2 consumer pursuant to subdivision (b) of Section 1785.20.3, those  
3 steps constitute compliance with the requirements of this section,  
4 except that if a consumer has placed a statement including a  
5 telephone number with the security alert in his or her file, his or  
6 her identity shall be verified by contacting the consumer using that  
7 telephone number as specified pursuant to subdivision (g).

8 SEC. 2. Section 1798.85 of the Civil Code is amended to read:

9 1798.85. (a) ~~Except as provided in subdivision (b), on or~~  
10 ~~after July 1, 2002, a person or entity, not including a state or local~~  
11 ~~agency, may not do any of the following, and on or after January~~  
12 ~~1 2004, a state or local agency may not do any of the following:~~

13 (1) Publicly post or publicly display in any manner an  
14 individual's social security number. "Publicly post" or "publicly  
15 display" means to intentionally communicate or otherwise make  
16 available to the general public.

17 (2) Print an individual's social security number on any card  
18 required for the individual to access products or services provided  
19 by the person or entity.

20 (3) Require an individual to transmit his or her social security  
21 number over the Internet, unless the connection is secure or the  
22 social security number is encrypted.

23 (4) Require an individual to use his or her social security  
24 number to access an Internet Web site, unless a password or unique  
25 personal identification number or other authentication device is  
26 also required to access the Internet Web site.

27 (5) Print an individual's social security number on any  
28 materials that are mailed to the individual, unless state or federal  
29 law requires the social security number to be on the document to  
30 be mailed. Notwithstanding this paragraph, social security  
31 numbers may be included in applications and forms sent by mail,  
32 including documents sent as part of an application or enrollment  
33 process, or to establish, amend or terminate an account, contract  
34 or policy, or to confirm the accuracy of the social security number.

35 ~~(b) Except as provided in subdivision (c), subdivision (a)~~  
36 ~~applies only to the use of social security numbers on or after July~~  
37 ~~1, 2002.~~

38 ~~(c) Except as provided in subdivision (f) (e), a person or entity;~~  
39 ~~not including a state or local agency, that has used, prior to July 1,~~  
40 ~~2002, an individual's social security number in a manner~~

inconsistent with subdivision (a), may continue using that individual's social security number in that manner on or after July 1, 2002, *and a state or local agency that has used, prior to January 1, 2004, an individual's social security number in a manner inconsistent with subdivision (a), may continue using that individual's social security number in that manner on or after January 1, 2004*, if all of the following conditions are met:

(1) The use of the social security number is continuous. If the use is stopped for any reason, subdivision (a) shall apply.

(2) The individual is provided an annual disclosure, commencing in the year 2002, that informs the individual that he or she has the right to stop the use of his or her social security number in a manner prohibited by subdivision (a).

(3) A written request by an individual to stop the use of his or her social security number in a manner prohibited by subdivision (a) shall be implemented within 30 days of the receipt of the request. There shall be no fee or charge for implementing the request.

(4) A person or entity, not including a state or local agency, shall not deny services to an individual because the individual makes a written request pursuant to this subdivision.

~~(d)~~

(c) This section does not prevent the collection, use, or release of a social security number as required by state or federal law or the use of a social security number for internal verification or administrative purposes.

~~(e)~~

(d) This section does not apply to documents that are recorded or required to be open to the public pursuant to Chapter 3.5 (commencing with Section 6250), Chapter 14 (commencing with Section 7150) or Chapter 14.5 (commencing with Section 7220) of Division 7 of Title 1 of, or Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of, the Government Code. This section does not apply to records that are required by statute, case law, or California Rule of Court, to be made available to the public by entities provided for in Article VI of the California Constitution.

~~(f)~~

(e) (1) In the case of a health care service plan, a provider of health care, an insurer or a pharmacy benefits manager, a

1 contractor as defined in Section 56.05, or the provision by any  
2 person or entity of administrative or other services relative to  
3 health care or insurance products or services, including third-party  
4 administration or administrative services only, this section shall  
5 become operative in the following manner:

6 (A) On or before January 1, 2003, the entities listed in  
7 paragraph (1) of subdivision-~~(f)~~ (e) shall comply with paragraphs  
8 (1), (3), (4), and (5) of subdivision (a) as these requirements  
9 pertain to individual policyholders or individual contract holders.

10 (B) On or before January 1, 2004, the entities listed in  
11 paragraph (1) of subdivision-~~(f)~~ (e) shall comply with paragraphs  
12 (1) to (5), inclusive, of subdivision (a) as these requirements  
13 pertain to new individual policyholders or new individual  
14 contractholders and new groups, including new groups  
15 administered or issued on or after January 1, 2004.

16 (C) On or before July 1, 2004, the entities listed in paragraph  
17 (1) of subdivision-~~(f)~~ (e) shall comply with paragraphs (1) to (5),  
18 inclusive, of subdivision (a) for all individual policyholders and  
19 individual contractholders, for all groups, and for all enrollees of  
20 the Healthy Families and Medi-Cal programs, except that for  
21 individual policyholders, individual contractholders and groups in  
22 existence prior to January 1, 2004, the entities listed in paragraph  
23 (1) of subdivision-~~(f)~~ (e) shall comply upon the renewal date of the  
24 policy, contract, or group on or after July 1, 2004, but no later than  
25 July 1, 2005.

26 (2) A health care service plan, a provider of health care, an  
27 insurer or a pharmacy benefits manager, a contractor, or another  
28 person or entity as described in paragraph (1) of subdivision-~~(f)~~ (e)  
29 shall make reasonable efforts to cooperate, through systems  
30 testing and other means, to ensure that the requirements of this  
31 article are implemented on or before the dates specified in this  
32 section.

33 (3) Notwithstanding paragraph (2), the Director of the  
34 Department of Managed Health Care, pursuant to the authority  
35 granted under Section 1346 of the Health and Safety Code, or the  
36 Insurance Commissioner, pursuant to the authority granted under  
37 Section 12921 of the Insurance Code, and upon a determination of  
38 good cause, may grant extensions not to exceed six months for  
39 compliance by health care service plans and insurers with the  
40 requirements of this section when requested by the health care

1 service plan or insurer. Any extension granted shall apply to the  
2 health care service plan or insurer's affected providers, pharmacy  
3 benefits manager, and contractors.

4 ~~(g)~~

5 (f) If a federal law takes effect requiring the United States  
6 Department of Health and Human Services to establish a national  
7 unique patient health identifier program, a provider of health care,  
8 a health care service plan, a licensed health care professional, or  
9 a contractor, as those terms are defined in Section 56.05, that  
10 complies with the federal law shall be deemed in compliance with  
11 this section.

12 SEC. 3. Notwithstanding Section 17610 of the Government  
13 Code, if the Commission on State Mandates determines that this  
14 act contains costs mandated by the state, reimbursement to local  
15 agencies and school districts for those costs shall be made pursuant  
16 to Part 7 (commencing with Section 17500) of Division 4 of Title  
17 2 of the Government Code. If the statewide cost of the claim for  
18 reimbursement does not exceed one million dollars (\$1,000,000),  
19 reimbursement shall be made from the State Mandates Claims  
20 Fund.

